

立法會
Legislative Council

LC Paper No. CB(1) 1329/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA/1

Panel on Environmental Affairs

Minutes of meeting
held on Tuesday, 18 March 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon Mrs Anson CHAN, GBM, JP
- Member attending** : Hon Tommy CHEUNG Yu-yan, SBS, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon SIN Chung-kai, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk, JP
- Public officers attending** : **For item IV**

Environmental Protection Department

Mr Carlson K S CHAN
Deputy Director of Environmental Protection (3)

Mr Benny WONG
Assistant Director (Air Policy)

Mr MOK Wai-chuen
Principal Environmental Protection Officer (Mobile
Source Control Group)

For item V

Environmental Protection Department

Mr Raymond FAN
Deputy Director of Environmental Protection (2)

Dr Malcolm BROOM
Assistant Director of Environmental Protection (Water
Policy)

Drainage Services Department

Mr KO Wing-hon
Deputy Director of Drainage Services (Acting)

For item VI

Environmental Protection Department

Mr C W TSE
Assistant Director (Environmental Assessment)

Mr Maurice YEUNG
Principal Environmental Protection Officer (Assessment
and Noise)

**Attendance by
invitation**

: For Item V

Association of Restaurant Managers

Mr WOO Lun
Vice Chairman

The Association for Hong Kong Catering Services
Management Ltd

Mr CHEUNG Chi-fai
Vice Chairman

Hong Kong Catering Industry Association

Mr WOO Chu
Vice Chairman

Factory Canteen Chamber of Commerce

Mr HUI Chin-pang
Vice Chairman

Hong Kong Federation of Restaurants and Related Trades

Mr LOCK Kwok-on
Vice Chairman

The Chartered Institution of Water and Environmental
Management Hong Kong

Mr Alex KWAN
Chairman

Chinese Cuisine Management Association

Mr NGAN Hing-chun
Chairman (Designate)

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Mrs Mary TANG
Senior Council Secretary (1)2

Miss Mandy POON
Legislative Assistant (1)4

I. Confirmation of minutes

(LC Paper No. CB(1) 1040/07-08 — Minutes of the meeting held on
28 January 2008)

The minutes of the meeting held on 28 January 2008 were confirmed.

II. Information paper issued since last meeting

2. Members noted the following information paper issued since the last meeting-

LC Paper No. CB(1) 1041/07-08(01) — Submission from Friends of the
Earth (HK) regarding management
of municipal solid waste

III Items for discussion at the next meeting

(LC Paper No. CB(1) 1046/07-08(01)

— List of follow-up actions

LC Paper No. CB(1) 1046/07-08(02)

— List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 28 April 2008, at 2:30 pm –

(a) Progress of implementation of the new nature conservation policy; and

(b) Progress of measures to mitigate road traffic noise.

4. In view of the recent fly-tipping incident at Shing Mun Country Park, members agreed to hold a special meeting on Friday, 11 April 2008, at 2:45 pm or immediately after the House Committee meeting, whichever was later, to discuss measures to tackle fly-tipping. As the subject straddled a number of bureaux/departments, the Administration would be requested to coordinate the attendance of relevant officials at the special meeting.

IV. Tax incentives to promote the use of environment-friendly commercial vehicles

(LC Paper No. CB(1) 1046/07-08(03)

Administration's paper on tax incentives to promote the use of environment-friendly commercial vehicles)

5. The Deputy Director of Environmental Protection (3) (DDEP(3)) briefed members on the Administration's proposal to promote the use of environment-friendly commercial vehicles by way of tax concession.

6. Noting that the percentage waiver of the first registration tax (FRT) under the proposed incentive scheme would range from 30% (for light goods vehicles less than 1.9 tonnes permitted gross vehicle weight) to 100% (for taxis, light buses, non-franchised buses and special purpose vehicles), Mr LAU Kong-wah enquired about the basis upon which the percentage waiver was arrived at. DDEP(3) explained that a 100% waiver was proposed for the replacement of taxis, light buses, non-franchised buses and special purpose vehicles because their FRTs were relatively low at 3.7% of the taxable value of the vehicle. A 50% waiver was proposed for goods vehicles weighing more than 1.9 tonnes permitted gross vehicle weight because their FRTs were higher at 15% to 17% of the taxable value. A much lower waiver of 30% was proposed for the replacement of light goods vehicle weighing up to 1.9 tonnes permitted gross vehicle weight lest vehicle owners might choose to replace their private cars with commercial light good vehicles in order to benefit from the tax incentives.

7. Given that vehicles were the second largest air emission source in Hong Kong, Mr LAU Kong-wah held the view that the tax concession should be enhanced to encourage more vehicle owners to replace their more polluting vehicles, such as heavy goods vehicles, with environment-friendly commercial vehicles. As the revenue foregone for the tax incentive scheme as presently proposed would only be \$26 million, Mr LEE Wing-tat expressed support for a higher percentage of FRT waiver to be provided to heavy goods vehicles to encourage the switch, in an attempt to reduce roadside pollution. Given the pressing need to improve air quality in Hong Kong and the sound fiscal condition of the Government, Ms Emily LAU also supported the provision of higher tax concessions to incentivize the early replacement of polluting vehicles with the more environment-friendly Euro V vehicles.

8. DDEP(3) advised that the Financial Services and the Treasury Bureau had been consulted on the proposed percentage of FRT waiver and the vehicle-class-specific caps. In deciding on the waiver, reference had been made to the level of FRT to be charged on the different types of vehicles. The percentage of FRT waiver as proposed should provide the necessary incentive to encourage the switch to Euro V vehicles which was only slightly more expensive than Euro IV vehicles. The provision of a higher percentage FRT waiver for light good vehicles weighing up to 1.9 tonnes might have the undesirable effect of encouraging owners to replace their private cars with these light goods vehicles. The Principal Environmental Protection Officer (Mobile Source Control Group) (PEPO(MSCG)) added that the proposed FRT waiver for light and heavy goods vehicles would be attractive to vehicle owners as this would comprise a significant percentage of the taxable value of the vehicles. In response to Mr LAU Kong-wah's further questions, DDEP(3) confirmed that vehicle owners who opted to replace their pre-Euro and Euro I diesel commercial vehicles with the more environment-friendly Euro V diesel models could benefit from the one-off grant scheme introduced in April 2007 and the FRT waiver to be introduced in April 2008. It was however not possible at the present stage to speculate on the participation rate of the tax incentive scheme. At members' request, the Administration undertook to provide the cost implications of providing a 100% FRT waiver for all goods vehicles.

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9. Mr Jeffrey LAM noted that since the launching of the incentive scheme to reduce the FRT for environment-friendly private cars, about 15% of the newly registered private cars were environment-friendly models. Feedback from the vehicle industry indicated that there were not too many choices of compliant Euro V models from which vehicle buyers could choose from. He enquired whether the Environmental Protection Department (EPD) was prepared to review the list of compliant Euro V models such that more choices could be made available. DDEP(3) advised that there were at present 19 models of environment-friendly private cars from which buyers could choose from, representing a 50% increase when compared to the number of such models when the scheme was launched in April 2007. PEPO(MSCG) added that since Hong Kong did not have its own vehicle manufacturing industry, reference had been made to the standards in Japan and Europe, where most of the vehicles were imported, in drawing up the qualifying standards for environment-friendly private cars. The standards would be reviewed and updated

annually taking into account technological advancement. The incentive scheme could encourage vehicle manufacturers to provide the local market with cars that would meet the qualifying standards.

10. Mr Jeffrey LAM questioned why some Japanese car models which were accepted as environment-friendly vehicles in Japan were not qualified under the incentive scheme in Hong Kong. PEPO(MSCG) explained that there were various grades for environment-friendly vehicles in Japan. Only those in the top echelon which were able to comply with more stringent emission requirements would be qualified under the incentive scheme in Hong Kong. While similar grading system was not available in Europe, vehicles imported from Europe would need to meet the stringent emission standard (with reduced emission of 50% as compared with the statutory requirement) and the fuel efficiency requirement in order to be qualified for the incentive scheme in Hong Kong.

11. Given that the more environment-friendly Euro V vehicles were mostly imported from Japan and European countries, Mr WONG Yung-kan enquired whether the rising exchange rate of Japanese yen/Euros against US dollars would discourage the switch. DDEP(3) said that as exchange rates would be reflected in the import price of vehicles, the exclusive FRT waiver for Euro V vehicles would remain attractive to buyers of Euro V vehicles, particularly when the price difference between Euro IV and Euro V vehicles was just about 3%. In response to Mr WONG's concern about the supply of auto-mechanics who were proficient in the maintenance and repair of Euro V vehicles if these were imported for use on a large scale, PEPO(MSCG) advised that there would not be much difference in the maintenance and repair of these vehicles since Euro IV and V vehicles were quite similar in construction. The Vocational Training Council had set up a vehicle maintenance database to facilitate auto-mechanics in the maintenance and repair of vehicles.

12. The Chairman was concerned that some unscrupulous vehicle dealers might try to exploit the FRT waiver by increasing the sale price of vehicles. DDEP(3) said that to promote the sales of Euro V vehicles, car dealers would need to make the vehicle prices more competitive. Hence, they would likely take full advantage of the proposed tax concession when pricing Euro V vehicles.

13. Given the low participation rate of the one-off grant scheme to encourage owners of pre-Euro and Euro I diesel commercial vehicles to replace their vehicles with environment-friendly models, Mr LEE Wing-tat was not optimistic about the effectiveness of the proposed incentive scheme. He enquired about the rationale behind the low participation rate. DDEP(3) advised that the participation rate would hinge on the nature and growth prospect of the relevant businesses in which owners of pre-Euro and Euro I diesel commercial vehicles were engaged. By way of illustration, more tourist buses had been replaced than container vehicles as a result of an increase in the number of tourists following the economic recovery. As at end February 2008, 4 153 applications for the one-off grants had been received, involving a sum of \$165 million. Since the one-off grant scheme in respect of pre-Euro and Euro I diesel commercial vehicles would expire by end September 2008 and end

March 2010 respectively, there would still be ample time for vehicle owners to arrange for the replacement of their vehicles. It was also worth noting that owners would tend to optimize the service lives of their vehicles before consideration would be given to replacing them. At members' request, the Administration undertook to provide a progress report on the one-off grant scheme for the replacement of pre-Euro and Euro I diesel commercial vehicles with environment-friendly models.

14. Since vehicles were the second largest air emission source in Hong Kong, Mrs Anson CHAN said that more proactive measures, including the use of a stick-and-carrot approach, should have been adopted by the Administration in reducing vehicular emissions. She enquired if consideration would be given to setting a definite time frame for the switch to more environment-friendly vehicles. DDEP(3) said that the Administration had been progressively tightening the emission standards. At present, Euro IV emission standard had been adopted as the statutory standard for newly registered commercial diesel vehicles in Hong Kong. It was expected that by late 2009, the statutory standard would be further tightened to Euro V emission standard in line with the European Union. To promote the switch to more environment-friendly vehicles, the Administration had launched the one-off grant scheme in April 2007 to encourage the early replacement of the more polluting vehicles. The proposed FRT waiver would provide further incentive for the switch to more environment-friendly Euro V vehicles with emission standards better than the statutory requirements. He added that a lot of efforts had been made in the control of vehicular emissions. The adoption of more drastic measures, such as the mandatory retirement of old polluting vehicles, might have adverse impact on the trade, in particular smaller transportation companies which might be forced out of business.

15. Mrs Anson CHAN however pointed out that the current measures were not able to achieve the needed improvements in air quality. She enquired if further actions could be contemplated. Mr LEE Wing-tat echoed that more should be done to improve roadside air quality which was affecting public health. He therefore supported that a time frame should be set for the mandatory retirement of polluting vehicles. He urged the Administration to re-think its policies on reduction of vehicular emissions, assess the effectiveness of the financial incentive schemes in encouraging the switch to more environment-friendly vehicles, and consider introducing disincentives for using old polluting vehicles. DDEP(3) said that at the present stage, financial incentives would be introduced to encourage the switch to the more environment-friendly vehicles. While the proposed FRT waiver had yet to be implemented on 1 April 2008, a review of its effectiveness in encouraging the switch to more environment-friendly vehicles would be conducted in due course.

16. In response to members' enquiry on whether approval from the Legislative Council (LegCo) was required for the proposed tax concession scheme, PEPO(MSCG) advised that the Secretary for the Financial Services and the Treasury was empowered to provide concessions for FRT and further approval from LegCo was not necessary. Mr LAU Kong-wah remained of the view that the percentage of FRT waiver should be increased. His views were shared by Ms Emily LAU who considered that the provision of more incentives to encourage the switch to more environment-friendly

vehicles was an environmental rather than a financial policy. DDEP(3) clarified that the provision of a 30% to 100% waiver in FRT was included in the Financial Secretary's Budget speech. He nevertheless undertook to relay members' request for further increase in the percentage of FRT waiver to the Financial Services and the Treasury Bureau for consideration. The Chairman requested that the Administration should revert back to the Panel before 1 April 2008.

(Post-meeting note: In its reply to the Panel dated 26 March 2008 (LC Paper No. CB(1) 1140/07-08(01), the Administration indicated that it would maintain the tax concession rates for different vehicle classes and adhere to its original plan to launch the scheme on 1 April 2008.)

V. Review of the generic chemical oxygen demand and Trade Effluent Surcharge rates under the Trade Effluent Surcharge Scheme

17 The Chairman welcomed the deputations to the meeting to express their views on the proposal to review the generic chemical oxygen demand (COD) and Trade Effluent Surcharge (TES) rates under the TES Scheme as set out in the Administration's information paper.

Meeting with the Association of Restaurant Managers

18. Mr WOO Lun/Vice Chairman said that the Association was disappointed at the proposed reduction of the TES rates of the restaurant trade by only 19% i.e. from \$3.78 to \$3.05 per cubic metre as a result of the survey on the strength of sewage under the TES Scheme. He pointed out that the restaurant trade was dissatisfied with the unfair TES rates imposed by the Drainage Services Department (DSD) based on the generic value of COD derived in 1995, which had been worked out in a non-transparent and unscientific manner using the test results of 31 restaurants only. The then Commissioner of Administrative Complaints had also raised question on the manner in which the generic COD value was derived in 1996. This was evidenced by the high successful appeal rate which had reflected that most restaurants had been overcharged under the Scheme. Despite repeated requests from the restaurant trade over the years, the Administration had failed to make downward adjustments to the TES rates. He therefore questioned the justifications for merely reducing the TES rates by only 19% in the present review.

Meeting with The Association for Hong Kong Catering Services Management Ltd

19. Mr CHEUNG Chi-fai/Vice Chairman said that the Association had the following queries -

- (a) how the generic COD value of 1 630 grammes per cubic metre (g/m^3) for the restaurant trade was derived and whether the sampling method of trade effluent was conducted in a scientific manner;

- (b) the average reduction in TES rates for the successful appellants; and
- (c) whether consideration would be given to reducing the discharge factor for the restaurant trade from 80% to 65% as proposed by the trade since part of the water supplied was used in cooking and drinking.

He also pointed out that it would be more reasonable to adopt a median generic COD value in the calculation of TES rates. As the restaurant trade had been overcharged in the past, it was hoped that a fair and equitable charging arrangement for the trade could be worked out under the present review.

Meeting with Hong Kong Catering Industry Association

20. Mr WOO Chu/Vice Chairman emphasized that the restaurant trade had been very supportive of the need to protect the environment and had taken measures to improve the quality of effluent through the installation of grease traps. However, the outcome of the survey was very disappointing to restaurant operators. The high successful appeal rate of 80% in the past few years had reflected that most restaurants had been overcharged under the TES Scheme. Given that most of the revised TES rates following appeals were lower than the proposed rate of \$3.05 per cubic metre, this implied that restaurant operators would still have to appeal against their TES charges to bring these down to a level below \$3.05 per cubic metre. It was hoped that a fair and equitable TES charging arrangement for the restaurant trade could be worked out. Lastly, the restaurant trade would request that the validity period of COD assessment, which had been extended from one year to two years, be further extended to three years, as most of the lease agreements were for a period of three years or more.

Meeting with Factory Canteen Chamber of Commerce

21. Mr HUI Chin-pang/Vice Chairman said that the restaurant trade was very disappointed over the proposed TES rates as recommended under the review. Given the high appeal costs, which would range from \$20,000 to \$30,000 for a small restaurant to \$30,000 to \$40,000 for a large restaurant, and the cumbersome appeal procedures, only larger restaurant chains could afford to appeal. As members of the Factory Canteen Chamber of Commerce were mostly operators of small eateries and coffee shops, they could not afford to appeal against their TES rates. Despite measures to streamline the appeal procedures, such as reducing the sampling period from three to two days, the cost of a successful appeal might have far exceeded the savings achieved through the downward adjustments of TES rates. Therefore, the Factory Canteen Chamber of Commerce would support further reduction in TES rates as well as streamlining of appeal procedures to incentivize the restaurant trade to endeavour reducing their pollution loads.

Meeting with Hong Kong Federation of Restaurants and Related Trades

22. Mr LOCK Kwok-on/Vice Chairman expressed disappointment at the

proposed scale of reduction in TES charges, given that 75% of TES were collected from the restaurant trade. He said that TES constituted a significant part of the operating costs of the trade. With the proposed increase in sewage charges over the next 10 years, the restaurant trade was expected to face further difficulties in its operation. Therefore, the Federation would request for an early reduction in TES rates and a clear and transparent mechanism in deriving the generic COD value.

Meeting with The Chartered Institution of Water and Environmental Management Hong Kong (CIWEM)
(LC Paper No. CB(1) 1077/07-08(01))

23. Mr Alex KWAN/Chairman said that CIWEM supported the use of polluter-pays principle to enhance public environmental awareness and promote the need for trades and industries to control pollution at source. It also supported the policy objective of the TES scheme to achieve full recovery of the operating costs as well as the Government's continuous initiatives to facilitate the trades to adopt pollution control measures. However, CIWEM was disappointed that the review was only limited to the generic COD values of the trades and industries, which formed the basis to determine the new TES rates, without any reference to the propriety of the selected pollutant parameters and the need for additional parameters based on the latest sewage treatment requirements and increasing operating cost. As the sole use of COD as indication of effluent strength was doubtful, consideration should be given to other pollutants that consumed treatment efforts or other forms of environmental costs. Efforts should also be made to encourage the general public to explore ways of using recycled /reclaimed water.

Meeting with Chinese Cuisine Management Association

24. Mr NGAN Hing-chun/Chairman (Designate) said that the Association shared other deputations' views that the reduction in TES rates was too low. While it was the Administration's policy objective to achieve full recovery of operating costs of sewage services, the public had never been apprised of the cost-effectiveness of sewage treatment. As the treatment cost was recovered on the basis of polluter-pays principle, the Administration should enhance the transparency of expenditure on sewage treatment. In this connection, he considered that a comparison on the changes in unit treatment cost over the past 13 years should be made, given that the total expenditure and unit treatment cost had declined by 4% and 10% respectively. A review of the level of treatment should also be made taking into account the affordability of the industries.

25. The Chairman also drew members' attention to the following submission from deputation not attending the meeting –

LC Paper No. CB(1) 1077/07-08(02) – Submission from Association of
Engineering Professionals in
Society Ltd

Meeting with the Administration

- (LC Paper No. CB(1) 1046/07-08(04) — Administration's paper on review of the generic chemical oxygen demand and Trade Effluent Surcharge rates under the Trade Effluent Surcharge Scheme
- LC Paper No. CB(1) 1046/07-08(05) — Paper on Trade Effluent Surcharge Scheme prepared by the Legislative Council Secretariat (Background brief)

26. The Deputy Director of Environmental Protection (2) (DDEP(2)) thanked deputations for their views. He said that taking into account the trades' views and with members' support, changes to the TES rates would be introduced by way of subsidiary legislation in May 2008 under the negative vetting procedure.

27. Mr Tommy CHEUNG questioned why it would take months for the introduction of the subsidiary legislation to amend the TES rates. DDEP(2) said that the Administration would endeavour to expedite the introduction of the amendment regulation so that the new rates could apply as soon as practicable.

Survey methodology

28. The Assistant Director of Environmental Protection (Water Policy) (ADEP(WP)) explained that the sampling process was conducted in two phases. In the first phase, the Environment Protection Department (EPD) surveyed the effluents of four trades, namely the laundry, bakery, meat and restaurant trades, which involved the majority of the TES accounts. A large number of effluent samples were taken randomly from trade establishments in different parts of the territory, including about 400 from the restaurant trade, 100 from the laundry trade, 60 from the bakery trade and 120 from the meat trade. In the second phase, the Hong Kong Productivity Council (HKPC) was commissioned as an independent consultant to survey the effluents of the remaining 26 trades in order to expedite the process. HKPC had conducted an additional 500 sampling events and had arrived at the estimates of the representative effluent quality of the trades being sampled. During the survey, individual operators of the TES trades were approached and consulted. The results of the survey had formed the basis of the proposed revision of TES rates. ADEP(WP) added that COD was the best determinant to apply in the scheme as it constituted a reasonable representation of the polluting characteristics of the trades and would provide for administrative simplicity in the Scheme. While nutrients could be another class of the parameters to be considered, it was worth noting that most of the TES trades were related to food industries and might have nutrient levels similar to ordinary sewage.. Different parameters were also adopted by other jurisdictions in assessing quality of effluent, but these were generally more complicated and costly.

29. Noting that about 384 samples of effluents were taken from the restaurant trade, Mr Tommy CHEUNG asked if the generic COD value of 1 630 g/m³ assigned to the restaurant trade was derived based on the average level or the median level of the samples, the latter of which would be more representative of the trade. To

facilitate better understanding, the Administration should make available the COD values of the 384 samples for reference by the restaurant trade. Mr CHEUNG further suggested using the median level of COD values of restaurants which were successful in their appeals as the generic COD value to be assigned for the restaurant trade as he was not convinced that the generic COD value of 1 630 g/m³ assigned to the restaurant trade was a fair assessment.

30. ADEP(WP) said that generic COD value of 1630 g/m³ assigned to the restaurant trade was set based on the average value of the samples after discarding the excessively high or low values. Given that the polluter-pays concept was based on the cost of treating the excess polluting load from the trades, and that the latter was best estimated as a product of the average pollutant concentration and the volume of sewage discharged, the Administration did not agree that the use of median value would be suitable.

31. Mr Tommy CHEUNG remained of the view that it was unfair to use the average COD value as the basis for deriving the generic value for the restaurant trade. He also questioned the Administration's choice of restaurants from which the effluent samples were taken, since restaurants with high pollution loads would affect the average COD value. In order to convince members that the generic COD value of 1 630 g/m³ assigned to the restaurant trade was a fair assessment, more information on the effluent quality of restaurants which were successful in their appeals should be provided. A comparison between the average and median COD values of these restaurants should also be made.

Assessment mechanism

32. Noting that the restaurant trade had been protesting against the TES rates since the introduction of the TES Scheme, Ms Emily LAU sought the trade's views on whether the assessment mechanism on effluent quality was fair and transparent. As the Deputy Chairman of Business Facilitation Advisory Committee (BFAC), she enquired if the trade would like to raise its concern with BFAC in an attempt to facilitate the conduct of business.

33. Mr WOO Chu/Hong Kong Catering Industry Association said that the recent protest against the proposed TES rates was the first time that members of the restaurant trade had taken matter to the streets since the TES Scheme was implemented some 13 years ago. Over the past years, 75% of TES were collected from the restaurant trade which was all along dissatisfied with the way which samples were taken and the generic COD value assigned. Despite that the Administration had finally taken the effort to complete a review of the TES rates, the restaurant trade was disappointed at the low rate of reduction for the trade. Mr LOCK Kwok-on/Hong Kong Federation of Restaurants and Related Trades said that he would be pleased if the matter could be brought to the attention of BFAC so that the views of the restaurant trade could be heard. He said that over the past years, the restaurant trade had taken strenuous efforts to improve effluent quality and to conserve water.

34. Ms Emily LAU asked if there was adequate consultation with the trade. Mr WOO Lun/Association of Restaurant Managers said that there not been adequate communication between the Administration and the trades nor were their concerns being conveyed to BFAC.

Appeals

35. The Deputy Director of Drainage Services (Acting) (DDDS (Atg)) said that there were about 500 successful appeals against TES rates each year. The number was considered relatively small given that there were over 14 000 restaurants in Hong Kong. With the extension of the validity period of COD reassessment from one year to two years and the reduction in the sampling period from three to two days, the cost of appeal for the restaurant trade had been reduced to a third of the original cost. On sewage services, DDDS (Atg) said that the Administration was well aware of the need to control the operating costs of sewage services and had adopted various measures in recent years to improve efficiency. The unit treatment cost had been reduced by 10% from \$1.33 to \$1.20 per tonne over a period of five years. The cost was significantly lower than many countries where the unit treatment cost amounted to \$4.00 per tonne or more. There was much transparency in the cost of sewage treatment and information on the expenditure incurred was made available on the Government website.

36. Mr Martin LEE said that Members of the Democratic Party were supportive of the polluter-pays principle, but were concerned about the flaws in the charging mechanism of TES as reflected by the high successful rate of appeals. Besides, smaller restaurants might not be able to afford the appeal given the high cost of appeal, which might not be recovered even if the appeal was successful. As such, the TES Scheme seemed very unfair to the trades. He asked if the Administration would consider the trades' suggestion of increasing the proposed percentage reduction in TES rates and whether the amount of TES overcharged by DSD in the past could be refunded to the trades.

37. DDEP(2) advised that based on the outcome of the survey, new generic COD values were proposed to be assigned to the TES trades. They could arrange for reassessment of the COD values under the established appeal mechanism if they were not satisfied with the TES rates. With the extension of the validity period of COD reassessment from one to two years and the reduction in the sampling period from three to two days, the cost of appeal for the restaurant trade had been much reduced. However, there was no refund of TES. DDDS (Atg) added that with the streamlining of appeal procedures, the cost of appeal for the majority of restaurants had been reduced to around \$3,000 to \$4,000. In fact, the pollution load of restaurant effluents could be significantly reduced through the installation and regular cleansing of effective grease traps. This was the main factor attributed to the success of many restaurants in their appeals. Through the Chair, Mr WOO Lun/Association of Restaurant Managers said that from his experience, the cost of appeal ranged from \$20,000 to \$30,000 and not \$3,000 to \$4,000 as claimed by the Administration.

38. Mr Martin LEE enquired whether consideration would be given to awarding the cost of appeal to the appellant if the appeal was successful. This would provide incentive to those smaller restaurants which were reluctant to lodge appeals on grounds of cost. DDEP(2) said that the Administration aimed at recovering the operating cost of sewage services in accordance with the polluter-pays principle. The purpose of the TES Scheme was to provide incentives for the trades to take measures to reduce the strength of their effluents so that they could have their TES reduced through the appeal mechanism. Meanwhile, efforts would be made to further streamline the appeal process.

39. Mr Tommy CHEUNG pointed out that even if restaurant operators had made efforts to reduce the strength of effluents, they could not benefit from reductions in TES unless they went through a cumbersome and costly appeal and was successful. He therefore agreed with Mr Martin LEE on the need for Government to award the cost of appeal to the successful appellants. He also pointed out that the extension of the validity period of COD reassessment from one to two years might not have served any useful purpose to the restaurant operators whose lease agreement would be expiring in a years' time. Mr LOCK Kwok-on/Hong Kong Federation of Restaurants and Related Trades welcomed the suggestion that the Government should award the cost of appeal to the successful appellants. He said that trade members would lodge appeals against the TES rates if they did not have to bear the cost of appeal if the appeal was successful. Mr WOO Lun/Association of Restaurant Managers agreed that the reduction in the sampling period from three to two days could not reduce the cost of engaging laboratories in the evaluation of effluent quality. It was worth noting that restaurants which were successful in their appeals could be able to reduce their TES significantly, some of which by as high as 90%. The average COD value of the effluents from restaurants which were successful in their appeals was about 800 g/m³.

40. Apart from requiring restaurants to install grease traps, the Chairman considered it necessary for the restaurants to ensure proper maintenance of these grease traps. DDEP(2) said that while restaurants operators were required to install grease traps as part of the licence conditions, some of them might not have properly used or maintained these grease traps. ADEP(WP) said that the Technical Memorandum issued under the Water Pollution Control Ordinance (WPCO) (Cap.358) controlled the standard of effluents discharged into the sewer. For COD for most categories of discharge, the prescribed standard was 2 000 g/m³.

41. Given that grease traps could be able to reduce the pollution load effectively if properly maintained, Mr Martin LEE enquired if the trade had difficulty in maintaining these grease traps. His view was shared by Ms Emily LAU. Mr WOO Chu/Hong Kong Catering Industry Association said that all effluent discharged by restaurants were filtered through grease traps and cleaners were regularly engaged to cleanse the grease traps. Owners of the restaurant premises would also require restaurant operators to cleanse the grease traps to prevent blockage of drains. He said that the restaurant trade was mindful of the need to improve the environment and had managed to reduce the pollution load of effluents

as far as practical through the proper cleansing of grease traps. Furthermore, installation of grease traps was a pre-requisite condition for the issue of restaurant licences. Mr WOO Lun/Association of Restaurant Managers said that all effluents from restaurants were expected to be filtered through the grease traps before discharged into the drains as the installation of proper grease traps was a necessary condition for the issue of restaurant licences. Restaurant operators would endeavour to improve the effluent quality as far as practicable since they were required to provide regular samples of effluent for inspection by DSD. Mr NGAN Hing-chun/Chinese Cuisine Management Association said that restaurants had to install grease traps which met the required specifications before the issue of restaurant licences. Besides, inspectors from the Food and Environmental Hygiene Department would pay regular visits to restaurants to ensure cleanliness and proper use of grease traps. Mr HUI Chin-pang/Factory Canteen Chamber of Commerce added that there should not be any concern about the lack of maintenance of grease traps as these were inspected regularly.

42. Through the Chair, DDDS (Atg) clarified that DSD would not request for effluent samples except in the case of appeals. He added that while all restaurants were equipped with grease traps, these had to be well maintained and properly sized before the pollution loads from effluents could be reduced. The performance of grease traps would depend on their design, size, detention time and degree of maintenance. DDEP(2) reiterated that the installation of grease traps was not a guarantee that the effluent discharged would be up to standard. Efforts would need to be taken by restaurant operators in improving the quality of effluents through proper maintenance of grease traps.

43. Mr Tommy CHEUNG said that according to the Administration, restaurants equipped with proper and well maintained grease traps should have no problems in attaining a COD level of 1 000 g/m³ of effluent. If this was the case, the generic value for the restaurant trade should have been set at 1000 g/m³ instead of 1630 g/m³. Based on his own experience in operating restaurants, the COD value of effluent was around 1200 to 1300 g/m³ if no additional measures apart from grease traps were implemented. He added that restaurant operators were willing to improve the effluent quality because they have to comply with the COD limit as well as other parameters being prescribed under WPCO for their effluents discharged. Failure to meet these standards would result in penalties and convictions. With the advancement in technology, the COD value of the restaurants in general should have been reduced.

44. In concluding, the Chairman requested the Administration to consider including in the subsidiary legislation to be introduced a provision for the Government to award the cost of appeal to the successful appellants. The Administration was also requested to provide the spread of COD values for the 384 samples of restaurant effluents, with information on the scale of operation of the restaurants; the basis upon which the generic COD value of 1630 g/m³ for the restaurant trade was arrived at; and information on the effluent quality of restaurants which were successful in their appeals in three weeks' time.

VI. Proposed additional "Designated Areas" under the Noise Control Ordinance (Cap. 400)

(LC Paper No. CB(1) 1046/07-08(06) — Administration's paper on proposed additional "Designated Areas" under the Noise Control Ordinance (Cap. 400))

45. The Assistant Director of Environmental Protection (Environmental Assessment) (ADEP(EA)) briefed members on the proposal to update the "Designated Areas" under the Noise Control Ordinance (NCO) (Cap. 400). The Principal Environmental Protection Officer (Assessment and Noise) (PEPO(AN)) further explained the extended coverage of the "Designated Areas" as set out in the Annex to the Administration's paper.

46. Ms Emily LAU questioned why the Administration had only consulted the concerned trades, including trade associations, public utility companies, railway operators and professional bodies, but not the affected residents. She also enquired about the views collected from the affected trades and professional bodies. ADEP(EA) said that the Administration believed that the proposed expansion of "Designated Areas" under NCO, which would cover almost all of the populated built-up areas, would be welcomed by residents. As regards the trades' views, ADEP(EA) said that the construction trade had expressed concern about the need for exemption for contracts which had been awarded or tenders which had been closed before the implementation date, while the Hong Kong Institution of Acoustics had cautioned about the impact of the expansion on ongoing construction works. After carefully considering their views, it was proposed that the new "Designated Areas" would come into effect from 1 January 2009 so as to allow time for the construction industry to get prepared. The Administration had also taken on board the Mass Transit Railway Corporation's concern that it might be premature to include areas where active development was only expected to take place in the next few years as "Designated Areas". To this end, only areas where population intake had already taken place or would take place in the next three years would be included as "Designated Areas". Reviews would be made as and when necessary on the need for further expansion of "Designated Areas" taking into account latest developments.

47. Given that the general public had not been consulted, Ms Emily LAU enquired if there were avenues through which the public could be able to express views on the proposed expansion of "Designated Areas", which would be introduced into the Legislative Council in the form of subsidiary legislation within the current session. There might be a need for public consultation before the relevant legislation was introduced. ADEP(EA) said that the Administration planned to update the coverage of "Designated Areas" regularly. In order not to delay the introduction of the proposed amendments to NCO to expand the coverage of "Designated Areas" within the current session, public consultation would be conducted following the passage of the subsidiary legislation. The Administration would welcome public views which would be taken into account in the next update of the coverage of "Designated Areas".

48. Mr Martin LEE agreed that consultation was necessary as some residents might consider a need to expand the coverage in addition to what was proposed. Noting that the last review was conducted in 2001 since the "Designated Areas" were established in 1996, he questioned the reason for the lapse of several years before a review was conducted. He also asked if consideration could be given to expanding the coverage of "Designated Areas" by way of subsidiary legislation as and when there were major developments. This would enable the Administration to be more responsive to the need of the community for a quiet living environment. ADEP(EA) said that while there were practical difficulties in introducing legislation for every major development, consideration could be given to reviewing the coverage of "Designated Areas" once every three years.

49. Mr Martin LEE opined that the regular reviews should be conducted more frequently, say on an annual basis instead of every three years. Mrs Anson CHAN supported the need for more frequent reviews. She also considered it necessary for the public to be consulted on the expansion of coverage of "Designated Areas". ADEP(EA) agreed that the need for further expansion of the coverage of "Designated Areas" would be assessed every year and public views would be sought on the proposed further expanded coverage.

VII. Any other business

50. There being no other business, the meeting ended at 7:20 pm.

Council Business Division 1
Legislative Council Secretariat
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